

ZONING BOARD OF ADJUSTMENT

Meeting Minutes

Recorded by Janice Pack

March 24, 2021

Members Attending: Gil Morris, George Rainier, Loren White, Jarvis Adams, Sheldon Pennoyer, Craig Pettigrew, Steve Atherton

Public Hearing Guests: Tom & Ginny Chrisenton, Marc Dube, Ron Lucas

Also Attending: Select Board Chairman Robert Marshall, Building Inspector Michael Borden

Meeting opened at 6:09 PM

Gil called the meeting to order and did a roll call. Gil then let everyone know that we need to elect officers for this year. **Jarvis nominated Gil as chair, George seconded. A roll call vote was taken; all were in favor except Gil who abstained, motion passed. George nominated Craig for Vice Chair; Sheldon seconded. A roll call vote was taken and all were in favor except Craig who abstained; motion passed.** Gil said the voting members tonight will be George, Craig, Jarvis, Sheldon and Loren.

ZBA Case 2021-02

The application was submitted by Tom & Ginny Chrisenton who are requesting an Appeal of Administrative Decision. This is in regard to Michael Borden's refusal to issue a building permit on Lots R-10-13 and R-10-13-1.

Gil read the Applicant's letter to the ZBA dated February 14, 2021 which also included Mr. Borden's email regarding the building permit and reasons for denial. (Documents are on record in the ZBA file) The Applicants said they found Mr. Borden's assessment to be incorrect because they said they had gotten assurance from the Planning Board. They said the Planning Board's approval of the lot line adjustment was confirmation that the lots were "Conforming Lots" of Record.

The Board reviewed the site plan and noted the class of the roads; Driscoll Road ends well away from the properties and becomes a gated private road. They have the deeded right of way on their property. Gil asked if the short curve of Driscoll Road was a deeded right of way or a Class VI road; the Applicant said it was a deeded right of way. Loren said that was not a Class V road in Lyndeborough. All of the property is in Greenfield; the Board looked at the location of the town lines. Sheldon asked about the Road frontage for R10-13-1. Tom explained the reason for the deeded right of way and its history.

Sheldon said that we've been asked to overrule Mr. Borden's decision that the lot is not served by adequate road. The road would need to be upgraded in order to serve as frontage. Tom said that wasn't the reason that Mike denied the building permit; he said they were not existing lots because of the lot line adjustment. Tom said the right of way has been a condition. George asked if the town had accepted the road but Tom said he didn't want them to, he just wanted it to remain a private road. The road has been accessed by Eversource, trash haulers, tractor trailers, etc. That isn't the question anyway. They are lots of record; the Planning Board approved them, they qualify as lots of record. Ginny directed everyone to the Planning Board's approval and the notes on the Lot Line Adjustment

44 Plan which said they were conforming lots of record. Tom said the second page of their response
45 answered Mike's comments.

46 Gil read the Planning Board Opinion which contained the minutes of the meeting where the
47 Chrisenton's approached the Planning Board for the Lot Line Adjustment. Mrs. Chrisenton said,
48 according to the minutes, that there would not be any new building lots. When asked for a reason for
49 the Lot Line Adjustment, she said they wanted both properties to access the private road. The Opinion
50 also noted that the Planning Board did not offer any approval of any plans for building.

51 Mr. Borden then confirmed that they had not **applied** for a Building Permit; therefore, one has not been
52 **denied**. Craig asked why we were here then. Loren said that an Administrative Decision had been
53 made. He agreed with Craig that he was under the impression that a Building Permit had been denied,
54 but we were still here to hear that Appeal. Gil said that we can't overturn something that hasn't
55 happened yet. Sheldon agreed that we can't adjudicate a decision that hasn't been made.

56 Steve said perhaps the next step would be for them to submit an application for a building permit. Jarvis
57 said if they want to sell those lots, they might want to do that. Tom said the reason they appealed an
58 Administrative Decision was because they had a buyer who backed out because he was told the lot was
59 unbuildable. Aaron Patt had said that only the Planning Board could say that lots are unbuildable. Gil
60 quoted Mr. Borden's letter which said because there are questions in the interpretation of the
61 ordinance he would deny a permit and refer them to the ZBA for a Variance. Tom said that the
62 conditions Mike gave for denial were erroneous. The Board reread Mike's interpretation which states
63 he would not issue the permit.

64 The Board discussed how to proceed. Craig stated that he understood that only the Select Board could
65 grant the permit to build on a Class VI or Private Road. Loren's interpretation is that the municipality
66 MAY accept the road so it has to go before Town Meeting. Tom said the Town of Greenfield voted in
67 Section 3.H.2 to adopt the rule that a lot of record can be built on: "The lot area shall be not less than
68 four (4) acres and the frontage not less than three hundred fifty (350') feet, provided however, that a lot
69 with less area or frontage which is recorded in the Office of the Registry of Deeds at the time of passage
70 of this amendment shall be deemed a conforming lot". George said the reference they are making to
71 our Zoning Ordinance talks about frontage and area and a conforming lot. It doesn't say anything about
72 a buildable lot.

73 Loren said he is prepared to make a motion that we close this hearing and discontinue discussion and
74 wait to see if the applicants are going to pursue this. We are not in a position to do any legwork or
75 homework at this point. Craig said if they're not going to build a house on this lot, why would they
76 apply for a building permit for something that is not going to happen? Applying for a permit for a house
77 that isn't going to be built doesn't make sense; you have no plans or anything. We agree this is a lot of
78 record, but not that it is buildable at this point. The Select Board is the only one that can grant
79 permission for building on a Class VI or Private Road.

80 **Loren moved to close the hearing, Steve seconded it.** Discussion: Jarvis said there is a lot that needs to
81 be done to apply for a building permit. Gil asked if the Chrisentons should go before the Planning Board
82 to clarify if it is a buildable lot or merely a conforming lot. Tom said the Planning Board did acknowledge
83 that these are conforming lots. They said they are in conformance with the Greenfield Zoning
84 Ordinance. Steve said the building permit would put more work on the applicants when they've already

85 done a lot. Sheldon said if they sell it, a possible buyer would do due diligence and apply for the building
86 permit. This Board does not have any action to take right now. Gil suggested they go back to the
87 Planning Board to confirm that the lots are buildable.

88 Public Comment: Ron Lucas, Driscoll Road, said they spent 25 years upgrading that road to a Class V.
89 They built culverts and bridges. His lots are not on a Class V road and no one will be able to do anything
90 of a residential nature on a Class VI road.

91 Returning to the Motion on the Table: **A roll call vote was taken and all were in favor; motion passed.**

92 **The Public Hearing was closed.**

93 Gil referenced the email from Aaron regarding having an ex officio member of the Select Board sit in;
94 the Board discussed this and are in favor of that.

95 **Sheldon moved to approve the minutes of the previous meeting as written; Craig seconded. A roll call**
96 **vote was taken and all were in favor; motion passed.**

97 Having no further business to discuss, **Sheldon motioned to adjourn the meeting, and George**
98 **seconded. All were in favor, motion passed, and the meeting adjourned at 7:49 PM.**